

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Crl.M. No.32176-M of 2006.

Date of Decision: 30.1.2007.

M/s Sukhna Enterprises and another

....Petitioners.

Versus

M/s Walia Cement Store

...Respondent.

CORAM : Hon'ble Mr. Justice Surya Kant.

Present:- Mr.Vikas Negi, Advocate with
Mr.Avnish Mittal, Advocate
for the petitioners.

Mr.S.K.Jain, Advocate
for the respondent.

SURYA KANT, J.(ORAL)

In these petitions under section 482 of the Code of Criminal Procedure, the petitioners seek quashing of Criminal Complaint Nos.54 and 55 dated 4.7.2000 (Annexure P-1) under Section 138 of the Negotiable Instrument Act, 1881, as also the summoning order dated 1.7.2003 passed therein by the learned Judicial Magistrate Ist Class, Rajpura (Annexure P-2).

The afore-mentioned relief has been sought mainly on the ground that there was a compromise between the parties on 17th June 2000 and in terms thereof the agreement (Annexure-P3) of the even date was executed.

In response to the notice of motion, learned counsel for the

respondent-complainant, vehemently denies that any compromise between the parties has taken place. It is the case of the respondent that no amount has been received from the petitioners so far.

In view of the above noticed seriously disputed questions of fact, I am afraid that the desired relief cannot be granted to the petitioners.

Learned counsel for the petitioners then contends that having regard to the nature of proceedings, petitioner No.2 may be granted exemption from personal appearance.

After hearing learned counsel for the parties in the light of the contentions noticed above, this petition is disposed of with the following directions:

- (i) the petitioners shall be at liberty to raise all the pleas before the learned trial Court at the appropriate stage and the same shall be gone into in accordance with law.
- (ii) Petitioner No.2, if so desires, may move an application before the learned Judicial Magistrate for granting him exemption from personal appearance and if any such application is moved by him, the learned Judicial Magistrate may grant exemption from personal appearance, however, subject to the following conditions: a) the petitioner No.2 shall be represented by a counsel before learned Judicial Magistrate; (b) he shall not dispute his identity as accused; (c) he will have no objection if the evidence is recorded in his absence; (d) he shall come present before the learned trial Court as and when required

nd (e) he shall also comply with any other condition (s) that may be imposed by the learned trial Court.

Disposed of.

January 30 ,2007.
Reema

(SURYA KANT)
JUDGE